

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND**
Greenbelt Division

In re: *
*
Anil Chatterjee & Milagros B. *
Chatterjee * Bankruptcy Case No. 10-32378
* Chapter 13
Debtors *
* * * * *

**MOTION TO COMPEL CHAPTER 13 NOTICE OF COMPLETION OF PLAN
PAYMENTS AND ENTRY OF DISCHARGE**

COME NOW, Anil Chatterjee and Milagros B. Chatterjee, the Debtors in the above referenced chapter 13 case, by counsel and respectfully state as follows:

Background

1. Commencing on September 29, 2010, Anil Chatterjee and Milagros B. Chatterjee (the “Debtors”) filed with this Court a voluntary case under chapter 13 of title 11 of the United States Code (the “Bankruptcy Code”).
2. The 341(a) Meeting of the Creditors was held on December 2, 2010 in Greenbelt, Maryland.
3. This Court confirmed the Debtors chapter 13 Plan on June 13, 2011.
4. The Debtors plan called for them to pay \$689 for 8 months and \$629 for 52 months for a total of 60 months. The Debtors agreed to a “100 percent plan” with interest. As of August 13, 2013, the Debtors had paid \$41,677.50 to the trustee. Thus, the Debtors have made all of their plan payments. Upon information and belief, the trustee is holding the case open because, as part of their chapter 13 plan, the Debtors surrendered property back to a secured

lender who might, theoretically, file an amended unsecured claim before the five year period expires.¹

Jurisdiction

5. This Court has subject matter jurisdiction to consider and determine this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b).
6. Venue is proper under 28 U.S.C. §§ 157(a), 1408, and 1409.
7. The statutory prerequisites for the relief requested herein are section 11 U.S.C. 1328(a) of the Bankruptcy Code and Rule 4004 of the Federal Rules of Bankruptcy Procedure.

Argument

8. The Court should compel the Trustee to file a Notice of Completion of Plan Payments and enter the Debtors' chapter 13 discharge. Section 1328 of the Bankruptcy Code states: (a) Subject to subsection (d), **as soon as practicable after completion by the debtor of all payments under the plan**, and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid, unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter [11 USC §§ 1301 et seq.], the court shall grant the debtor a discharge of all debts provided for by the plan or disallowed under section 502 of this title [11 USS § 502]..." 11 U.S.C. § 1307(a) (Emphasis added). "Once all of the payments prescribed by the confirmed plan are made, whether received by the trustee singularly over a series of months, or received in an aggregate amount in one prepayment, this Court is of the opinion that such a debtor has accomplished a 'completion....of

¹ Presumably, the creditor would first have to file a motion under 11 U.S.C. Section 506(a)(1).

all payments under the plan' and becomes at that moment statutorily entitled to the entry of a discharge under the plain language of § 1328(a)." *In re Celeste*, 310 B.R. 286, 289 (Bankr. D. Md. 2004) quoting *In re Smith*, 237 B.R. 621, 626 (Bankr. E.D. Tex. 1999).

9. In this case, the Debtors were required to pay \$689 for 8 months and \$629 for 52 months for a total of 60 months (or a total of \$38,220.00). They have paid a total of \$41,677.50 to the trustee. The total amount of unsecured claims was \$30,082.61. See Exhibit "A" (Extrapolation of Trustee ledger). Thus, the Debtors have made all of the payments that they were required to make. The Debtors have completed Local Form LBF-P.

WHEREFORE, the debtors move this Court for an Order compelling the Trustee to file a Notice of Completion of Plan Payments, direct the Clerk to Enter Discharge within twenty one (21) days of said Notice and for such other and further relief as to the Court may seem just and proper.

Dated: Annapolis, Maryland
September 25, 2013

Respectfully submitted on behalf of
Debtors,

/s/ Morgan W. Fisher
Morgan W. Fisher (#28711)

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, to the extent that the following persons were not served electronically via the CM/ECF system, I caused a copy of the pleading above referenced to be sent on this date, by first class U.S. mail, postage prepaid to Nancy Spencer Grigsby, Chapter 13 Trustee, 4201 Mitchellville Road, #401, Bowie, MD 20716, the U.S. Trustee's Office, 6305 Ivy Lane, #600, Greenbelt, Maryland 20770, and all parties on the mailing matrix..

Date: September 25, 2013

/s/Morgan W. Fisher
Morgan W. Fisher